IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FOURTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE Mr. JUSTICE C.V.RAMULU

WRIT PETITION No.2780 of 1998

Between:

1 G.Venkateswara Rao, S/o. Pullaiah,
Working as NMRs in the Water Works Department,

Khammam Municipality, Khammam District.
2 K.Thirapaiah, S/o. Ramulu,
Working as NMRs in the Water Works Dept.

Khammam Municipality, Khammam District.
3 S.satyanarayana, S/o. Venkateswarlu,
Working as NMRs in the Water Works Dept.

Khammam Municipality, Khammam District.
4 V.srinivasa Rao, S/o. Seshaiah,
Working as NMRs in the Water Works Dept.

Khammam Municipality, Khammam District.
5 P.Prabhakar, S/o. Ramulu,
Working as NMRs in the Water Works Dept.

Khammam Municipality, Khammam Dist.
6 Ch.Yellaiah, s/o. Kotaiah,
Working as NMRs in the Water Works Dept.

Khammam Municipality, Khammam Dist.
7 P.Yakaiah, S/o. Iylaiah,
Working as NMRs in the Water Works Dept.

Khammam Municipality, Khammam Dist.
8 K.Seshaiah, S/o. Venkatreddy,
Working as NMRs in the Water Works Dept.,

Khammam Municipality, Khammam Dist.
9 G.Mallikarjuna Rao, S/o. Pullaiah,
Working as NMRs in the Water Works Dept.,

Khammam Municipality, Khammam Dist.
10 G.Venkanna, S/o. Shoury,
Working as NMRs in the Water Works Dept.,

Khammam Municipality, Khammam Dist.
11 P.Naryana , s/o. Bhusaiah,
Working as NMRs in the Water Works Dept.,

Khammam Municipality, Khammam Dist.

..... PETITIONERS

AND

1 The Commissioner, Khammam Municipality, Khammam district.
2 The Commissioner & Director, Municipal Administration,

Government of Andhra Pradesh,
M.J.Road, Hyderabad.
3 The Govt. of A.P. rep.by its Secretary,
HMA & UD Department, Secretariat,
Hyderabad.
4 The Govt. of A.P. rep.by its Principal Secretary,
Finance and Planning Department, Secretariat,
Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to regularise the services of the petitioners in terms of G.O. 212 dt.22.4.94 Memo No.44902/476/A2/PC.III/96 dt.24.4.1997 and place them on the regular scale of pay.

Counsel for the Petitioners: Mr. P.BALA KRISHNA MURTHY

Counsel for Respondent No.1: Mr.POLISETTY RADHAKRISHNA

Counsel for Respondents 2 to 4 : G.P. FOR MUNICIPAL ADMN.

The Court made the following :

ORAL ORDER:

This writ petition is filed seeking a direction to the respondents to regularize the services of the petitioners in terms of G.O.Ms.No.212, Finance and Planning (FW.PC.III) Department, dated 22-4-1994 and Memo No.44902/476/A2/PC.III/96, dated 24-4-1997 and also to place them on regular scale of pay.

It is the case of the petitioners that they have been employed on NMR basis by the 1st respondent in Khammam Municipality. They have been appointed in and around the year 1987. Initially, their services were utilized by the 1st respondent in the Horticulture wing and later on in the water works wing. Thus, they have been attending on the distribution, filtering and cleaning works. As on the date of filing of the writ petition, they have put in 8 to 10 years of continuous service. The Municipal Council, Khammam through its Resolution No.764, dated 23-3-1992 resolved to regularize the services of NMRs, who had completed 5 years of service by creating supernumerary posts. Similar resolutions have been passed thereafter also. Apart from that, the State Government also issued directions through G.O.Ms.No.212, dated 22-4-1994. The said G.O. contemplates that the services of a person, who worked continuously for a minimum period of 5 years and continuing as on 25-11-1993, be regularized. All the petitioners satisfied the requirement of G.O.Ms.No.212, dated 22-4-1994. However, the benefits under the said G.O. have not been extended

to them for regularization of their services. The petitioners earlier approached the A.P. Administrative Tribunal, which directed the respondents to take necessary steps for regularization of their services. The very scheme, which resulted in issuance of G.O.Ms.No.212, dated 22-4-1994, was issued in pursuance of a statement made by the State before the Apex Court in W.P. (Civil) Nos.31 and 159 of 1994. It is asserted by the petitioners that there are clear vacancies in Khammam Municipality as of now to absorb and regularize their services in terms of G.O.Ms.No.212, dated 22-4-1994.

Respondents 1 and 3 filed separate and detailed counter affidavits denying the allegations made by the petitioners.

Sri P. Balakrishna Murthy, learned counsel appearing for the petitioners, submitted that during the pendency of the writ petition, the services of petitioners 1 to 3,7 and 10 have been regularized since they have satisfied the terms and conditions laid down in G.O.Ms.No.212, dated 22-4-1994, whereas the cases of other petitioners were not considered on the ground that they have not completed 5 years of continuous service as on 25-11-1993.

The service particulars of petitioners 4 to 6, 8, 9 and 11 are not in dispute. It is also not in dispute that petitioners 4 to 6, 8, 9 and 11 are still working as on date in Khammam Municipality. In the counter affidavits except stating that the above petitioners have not completed five years of service as on 25-11-1993, no other objection is taken by the respondents. The learned counsel for the petitioners asserts that petitioners 4 to 6, 8, 9 and 11 are still continuing in service as on date and they have put in more than 14 years of service as on now. Under similar circumstances, a Division Bench of this Court in W.A.Nos.603 to 605 of 1995, dated 30-6-1995 held as under:

> "……..On the facts of the case, we are inclined to adopt the reasoning given in P*eople's Union for Democratic Rights v. Union of India – AIR 1982 SC 1473* that such employees, who belong to the socially exploited class of citizens, should not be made to suffer on account of wagaries of the employer. We accordingly affirm the order of the learned single Judge with the modification, however, that the services of the respondent-employees shall be regularized with effect from the date or dates they completed five years of continuous service and they shall be paid wages (obviously not less than the minimum wages) on par with the wages paid to the permanent employees of their category.

The Apex Court in **DISTRICT COLLECTOR/CHAIRMAN v. T. DEVENDERPAL SINGH** upheld the said decision of the Division Bench. In view of the said decisions, there is no necessity that the petitioners should have put in five years of service as on 25-11-1993 and it is suffice if they put in five years of continuous service in the organization as on the date of consideration of their cases. The respondents have also not raised any objection as to availability of vacancies etc.

For the aforesaid reasons, I am of the considered opinion that the petitioners are entitled for being considered for regularization of their services in the light of G.O.Ms.No.212, dated 22-4-1994, immediately after completion of five years of service.

Insofar as petitioners 1 to 3,7 and 10 are concerned, the writ petition has become infructuous and is accordingly dismissed.

In view of the above, the respondents are directed to consider the case of petitioners 4 to 6, 8, 9 and 11 for regularization of their service from the date immediately after completion of five years of service in Khammam Municipality either in the existing vacancies or in the future vacancies. Till such exercise is made, petitioners 4 to 6, 8, 9 and 11 shall be continued in the same posts as held by them as on today on the same terms and conditions.

The Writ Petition is disposed of accordingly. No order as to costs.

14-6-2005

prk

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Commissioner, Khammam Municipality, Khammam district.
2 The Commissioner & Director, Municipal Administration,

Government of Andhra Pradesh,
M.J.Road, Hyderabad.
3 The Secretary, HMA & UD Department, Government of

Andhra Pradesh, Secretariat, Hyderabad.
4 The Principal Secretary,
Finance and Planning Department,

Government of A.P., Secretariat,
Hyderabad.

5 2 CCs to Government Pleader for Municipal Administration, High Court

Buildings, Hyderabad (OUT).

6 2 CD copies.